

AMENDED IN ASSEMBLY MARCH 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 525**

**Introduced by Assembly Member Cohn**

February 18, 2003

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An act to amend ~~Sections 2530.2 and 3351.3~~ *Section 3365.6* of the Business and Professions Code, relating to hearing aids.

LEGISLATIVE COUNSEL'S DIGEST

AB 525, as amended, Cohn. Hearing aid dispensing.

*Existing law, the Hearing Aid Dispensers Licensing Law, establishes the Hearing Aid Dispensers Bureau in the Department of Consumer Affairs for the licensing and regulation of hearing aid dispensers. Existing law prohibits a hearing aid dispenser from selling a hearing aid to a person 16 years of age or younger, unless that person has obtained a recommendation for a hearing aid within the preceding 6 months from a specified otolaryngologist and a certified audiologist.*

*This bill would delete the requirement that the audiologist be certified and instead require that the audiologist be licensed by the state.*

~~Existing law, the Speech-Language Pathologists and Audiologists Licensure Act, establishes the Speech Language Pathology and Audiology Board in the Department of Consumer Affairs for the licensure and regulation of speech pathologists and audiologists. Existing law defines the practice of audiology to include, among other things, hearing aid recommendation and evaluation procedures. Existing law provides that the violation of the act is crime.~~

~~This bill would expand the definition of audiology to authorize an audiologist to dispense hearing aids. The bill would make conforming~~

changes. By expanding the scope of the Speech-Language Pathologists and Audiologists Licensure Act, the violation of which is a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes no. State-mandated local program: yes no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 2530.2 of the Business and Professions~~  
2     ~~SECTION 1. Section 3365.6 of the Business and Professions~~  
3     ~~Code is amended to read:~~  
4     3365.6. No hearing aid shall be sold by an individual licensed  
5     under this chapter, to a person 16 years of age or younger, unless  
6     within the preceding six months a recommendation for a hearing  
7     aid has been made by both a board-certified, or a board-eligible  
8     physician specializing in otolaryngology, and by ~~an a state~~  
9     ~~licensed audiologist certified by the American Speech and~~  
10    ~~Hearing Association. A replacement of an identical hearing aid~~  
11    ~~within one year shall be an exception to this requirement.~~  
12    ~~Code is amended to read:~~  
13    2530.2. ~~As used in this chapter, unless the context otherwise~~  
14    ~~requires:~~  
15    (a) ~~“Board” means the Speech-Language Pathology and~~  
16    ~~Audiology Board or any successor.~~  
17    (b) ~~“Person” means any individual, partnership, corporation,~~  
18    ~~limited liability company, or other organization or combination~~  
19    ~~thereof, except that only individuals can be licensed under this~~  
20    ~~chapter.~~  
21    (c) ~~A “speech-language pathologist” is a person who practices~~  
22    ~~speech-language pathology.~~  
23    (d) ~~“The practice of speech-language pathology” means: (1)~~  
24    ~~the application of principles, methods, instrumental procedures,~~  
25    ~~and noninstrumental procedures for measurement, testing,~~  
26    ~~screening, evaluation, identification, prediction, and counseling~~

1 related to the development and disorders of speech, voice,  
2 language, or swallowing; (2) the application of principles and  
3 methods for preventing, planning, directing, conducting, and  
4 supervising programs for habilitating, rehabilitating,  
5 ameliorating, managing, or modifying disorders of speech, voice,  
6 language, or swallowing in individuals or groups of individuals;  
7 and (3) conducting hearing screenings.

8 (e) (1) Instrumental procedures referred to in subdivision (d)  
9 are the use of rigid and flexible endoscopes to observe the  
10 pharyngeal and laryngeal areas of the throat in order to observe,  
11 collect data, and measure the parameters of communication and  
12 swallowing as well as to guide communication and swallowing  
13 assessment and therapy.

14 (2) Nothing in this subdivision shall be construed as a  
15 diagnosis. Any observation of an abnormality shall be referred to  
16 a physician and surgeon.

17 (f) A licensed speech-language pathologist shall not perform a  
18 flexible fiberoptic nasendoscopic procedure unless he or she has  
19 received written verification from an otolaryngologist certified by  
20 the American Board of Otolaryngology that the speech-language  
21 pathologist has performed a minimum of 25 flexible fiberoptic  
22 nasendoscopic procedures and is competent to perform these  
23 procedures. The speech-language pathologist shall have this  
24 written verification on file and readily available for inspection  
25 upon request by the board. A speech-language pathologist shall  
26 pass a flexible fiberoptic nasendoscopic instrument only under the  
27 direct authorization of an otolaryngologist certified by the  
28 American Board of Otolaryngology and the supervision of a  
29 physician and surgeon.

30 (g) A licensed speech-language pathologist shall only perform  
31 flexible endoscopic procedures described in subdivision (e) in an  
32 acute care setting, as defined in subdivision (a) of Section 1250 of  
33 the Health and Safety Code, that requires the facility to have  
34 protocols for emergency medical backup procedures, including a  
35 physician and surgeon or other appropriate medical professionals  
36 being readily available.

37 (h) "Speech-language pathology aide" means any person  
38 meeting the minimum requirements established by the board, who  
39 works directly under the supervision of a speech-language  
40 pathologist.

1 (i) (1) “Speech-language pathology assistant” means a person  
2 who meets the academic and supervised training requirements set  
3 forth by the board and who is approved by the board to assist in the  
4 provision of speech-language pathology under the direction and  
5 supervision of a speech-language pathologist who shall be  
6 responsible for the extent, kind, and quality of the services  
7 provided by the speech-language pathology assistant.

8 (2) The supervising speech-language pathologist employed or  
9 contracted for by a public school may hold a valid and current  
10 license issued by the board, a valid, current, and professional clear  
11 clinical or rehabilitative services credential in language, speech,  
12 and hearing issued by the Commission on Teacher Credentialing,  
13 or other credential authorizing service in language, speech, and  
14 hearing issued by the Commission on Teacher Credentialing that  
15 is not issued on the basis of an emergency permit or waiver of  
16 requirements. For purposes of this paragraph, a “clear” credential  
17 is a credential that is not issued pursuant to a waiver or emergency  
18 permit and is as otherwise defined by the Commission on Teacher  
19 Credentialing. Nothing in this section referring to credentialed  
20 supervising speech-language pathologists expands existing  
21 exemptions from licensing pursuant to Section 2530.5.

22 (j) An “audiologist” is one who practices audiology.

23 (k) “The practice of audiology” means the application of  
24 principles, methods, and procedures of measurement, testing,  
25 appraisal, prediction, consultation, counseling, instruction related  
26 to auditory, vestibular, and related functions and the modification  
27 of communicative disorders involving speech, language, auditory  
28 behavior or other aberrant behavior resulting from auditory  
29 dysfunction; and the planning, directing, conducting, supervising,  
30 or participating in programs of identification of auditory  
31 disorders, hearing conservation, cerumen removal, aural  
32 habilitation, and rehabilitation, including, hearing aid  
33 recommendation, evaluation, and dispensing procedures  
34 including, but not limited to, specifying amplification  
35 requirements, evaluation of the results thereof, auditory training,  
36 dispensing of hearing aids, and speech reading.

37 (l) “Audiology aide” means any person, meeting the minimum  
38 requirements established by the board, who works directly under  
39 the supervision of an audiologist.

1 ~~(m) “Medical board” means the Medical Board of California~~  
2 ~~or a division of the board.~~

3 ~~(n) A “hearing screening” performed by a speech-language~~  
4 ~~pathologist means a binary puretone screening at a preset intensity~~  
5 ~~level for the purpose of determining if the screened individuals are~~  
6 ~~in need of further medical or audiological evaluation.~~

7 ~~(o) “Cerumen removal” means the nonroutine removal of~~  
8 ~~cerumen within the cartilaginous ear canal necessary for access in~~  
9 ~~performance of audiological procedures that shall occur under~~  
10 ~~physician and surgeon supervision. Cerumen removal, as provided~~  
11 ~~by this section, shall only be performed by a licensed audiologist.~~  
12 ~~Physician and surgeon supervision shall not be construed to~~  
13 ~~require the physical presence of the physician, but shall include all~~  
14 ~~of the following:~~

15 ~~(1) Collaboration on the development of written standardized~~  
16 ~~protocols. The protocols shall include a requirement that the~~  
17 ~~supervised audiologist immediately refer to an appropriate~~  
18 ~~physician any trauma, including skin tears, bleeding, or other~~  
19 ~~pathology of the ear discovered in the process of cerumen removal~~  
20 ~~as defined in this subdivision.~~

21 ~~(2) Approval by the supervising physician of the written~~  
22 ~~standardized protocol.~~

23 ~~(3) The supervising physician shall be within the general~~  
24 ~~vicinity, as provided by the physician-audiologist protocol, of the~~  
25 ~~supervised audiologist and available by telephone contact at the~~  
26 ~~time of cerumen removal.~~

27 ~~(4) A licensed physician and surgeon may not simultaneously~~  
28 ~~supervise more than two audiologists for purposes of cerumen~~  
29 ~~removal.~~

30 ~~SEC. 2.—Section 3351.3 of the Business and Professions Code~~  
31 ~~is amended to read:~~

32 ~~3351.3.—This chapter does not apply to nor affect any~~  
33 ~~physician and surgeon licensed under Chapter 5 (commencing~~  
34 ~~with Section 2000) of Division 2 who does not directly or~~  
35 ~~indirectly engage in the sale or offering for sale of hearing aids, nor~~  
36 ~~to any audiologist licensed under Chapter 5.3 (commencing with~~  
37 ~~Section 2530), or to an individual supervised by an audiologist in~~  
38 ~~conducting fitting procedures.~~

39 ~~SEC. 3.—No reimbursement is required by this act pursuant to~~  
40 ~~Section 6 of Article XIII B of the California Constitution because~~

1 ~~the only costs that may be incurred by a local agency or school~~  
2 ~~district will be incurred because this act creates a new crime or~~  
3 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
4 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
5 ~~the Government Code, or changes the definition of a crime within~~  
6 ~~the meaning of Section 6 of Article XIII B of the California~~  
7 ~~Constitution.~~

